

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-105-RJC-DCK**

URBAN SMITH,)
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Plaintiff,)
)
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v.)
)
SAXON MORTGAGE SERVICES,)
)
)
Defendant.)
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)

ORDER

THIS MATTER comes before the Court on Defendant Saxon Mortgage Services's ("Defendant") Motion to Dismiss, (Doc. No. 5), and the Magistrate Judge's Memorandum and Recommendation ("M&R"), recommending that this Court grant Defendant's motion. (Doc. No. 8).

I. BACKGROUND

Defendant filed its motion to dismiss on April 11, 2011. The Magistrate Judge issued a Roseboro order on that same day. (Doc. No. 7); see also Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975). Pro se Plaintiff Urban Smith ("Plaintiff") failed to respond to the motion. On May 6, 2011, the Magistrate Judge recommended that this Court grant Defendant's motion on the basis that Plaintiff failed to prosecute or respond to Defendant's motion and, alternatively, based on Plaintiff's failure to state a claim upon which relief could be granted. (Doc. No. 8). Plaintiff has not filed any objections.

II. STANDARD OF REVIEW

The district court may assign dispositive pretrial matters pending before the court to a magistrate judge for "proposed findings of fact and recommendations." 28 U.S.C. § 636(b)(1)(B). The Federal Magistrate Act provides that "a district court shall make a de novo

determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” Id. at § 636(b)(1); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

“By contrast, in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting FED. R. CIV. P. 72 advisory committee’s note). Where a party fails to object to the Magistrate Judge’s M&R, the district court may accept, reject, or modify the M&R without explanation. Camby, 718 F.2d at 199.

III. ANALYSIS

Here, Plaintiff failed initially to respond to Defendant’s motion to dismiss. Then Plaintiff failed to object to the Magistrate Judge’s M&R. This Court finds no clear error in the Magistrate Judge’s finding that Plaintiff’s Complaint should be dismissed. The Court adopts the Magistrate Judge’s M&R and **GRANTS** Defendant’s motion to dismiss, (Doc. No. 5).

IT IS, THEREFORE, ORDERED that:

1. The Magistrate Judge’s M&R, (Doc. No. 8), is **ADOPTED**; and
2. Defendant’s Motion to Dismiss, (Doc. No. 5), is **GRANTED**.

Signed: November 29, 2011



Robert J. Conrad, Jr.
Chief United States District Judge
